

REMARKS

This Amendment is being filed in response to the Final Office Action mailed September 15, 2008, which has been reviewed and carefully considered. Entry of the present amendment and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully.

Claims 1-8 remain in this application, where claim 9 has been canceled by this amendment without prejudice. Applicants reserve the right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or continuing applications.

In the Office Action, claim 9 is rejected under 35 U.S.C. §112, first paragraph as allegedly failing to comply with the written description requirement. Without agreeing with the position forwarded in the Office Action and in the interest of advancing prosecution, claim 9 has been canceled without prejudice. The cancellation of claim 9 renders moot this rejection with regard to this claim.

In the Final Office Action, claims 1-9 are rejected under 35

U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,469,978 (Ohata) in view of U.S. Patent Application Publication No. 2002/0150009 (Tokumitsu). It is respectfully submitted that claims 1-8 are patentable over Ohata and Tokumitsu for at least the following reasons.

Ohata is directed to a rewritable optical disk with spare area or defect management formatted with different group configurations without changing the firmware. As specifically recited in the Abstract, the size of the spare area or defect management is specified at initialization. As clearly shown in FIG 2, the spare area or defect management is located at the end of the user area.

As correctly noted by the Examiner on page 4 of the Final Office Action, Ohata does not disclose or suggest "assignment means for adapting the assignment information in dependence of a detected defect, detected during recording," as recited in independent claim 1, and similarly recited in independent claim 8. Tokumitsu is cited in an attempt to remedy the deficiencies in Ohata.

Tokumitsu is directed to an information recording medium which includes a user data area and a medium management information area and allows update of information. Information for identifying the

allowable number of times of recording of information is previously recorded on the recording medium. Paragraph [0002] discloses that when a DVD-RAM drive detects a defective block at the recording area on the information recording medium during the recording operation, an alternative block is assigned and a defect management table used for management of correspondence between the defective block and alternative block is recorded on the medium.

It is respectfully submitted that Ohata, Tokumitsu and combination thereof, do not disclose or suggest the present invention as recited in independent claim 1, and similarly recited in independent claim 8 which, amongst other patentable elements, recites (illustrative emphasis provided):

assignment means for adapting the assignment information in dependence of a detected defect, detected during recording, by assigning an additional physical address range to an additional defect management area, the additional physical address range having a starting physical address near the detected defect.

Adapting the assignment information in dependence of a detected defect, detected during recording, by assigning an additional physical address range to an additional defect management area, the additional physical address range having a

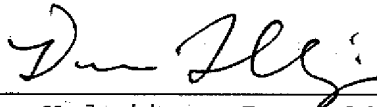
starting physical address near the detected defect, are nowhere disclosed or suggested in Ohata and Tokumitsu, alone or in combination. Rather, Ohata discloses to include the spare area or defect management is located at the end of the user area, as shown in FIG 2.

Accordingly, it is respectfully requested that independent claims 1 and 8 be allowed. In addition, it is respectfully submitted that claims 2-7 should also be allowed at least based on their dependence from independent claim 1 as well as their individually patentable elements.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

By 
Dicran Halajian, Reg. 39,703
Attorney for Applicant(s)
November 7, 2008

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101